

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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HOLLY J. HOFFMAN,

Plaintiff,

v.

Case No. 15-C-906

NANCY A. BERRYHILL,  
Acting Commissioner of Social Security,<sup>1</sup>

Defendant.

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**ORDER**

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Plaintiff Hoffman now moves the Court to award attorney fees in the amount of \$3,307 to her attorney to be paid by the defendant from funds withheld from Hoffman's disability back benefits pursuant to 42 U.S.C. § 406(b). ECF No. 25. Under the fee agreement between Plaintiff and her counsel for representation in federal court, Plaintiff's counsel is entitled to 25% of back due benefits consistent with 42 U.S.C. § 406(b). This Court previously remanded this case back to the Social Security Administration for further proceedings. Upon remand, an Administrative Law Judge found Hoffman disabled. As a result of that decision, Hoffman was found to be owed back benefits in excess of \$73,000. The agency withheld \$18,257, which is 25% of the back due benefits award.

From that \$18,257, Hoffman is pursuing a \$10,000 fee payment directly from the agency. This leaves \$8,257 remaining. Hoffman's counsel requests \$4,950 of the \$8,257 be paid directly to Hoffman as refund for the Equal Access to Justice Act (EAJA) payment Hoffman's counsel

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<sup>1</sup> Nancy A. Berryhill is now the Acting Commissioner of Social Security. Pursuant to Federal Rule of Civil Procedure 25(d), the court will substitute Nancy A. Berryhill for Acting Commissioner Carolyn W. Colvin as defendant in this suit.

previously received and which is typically offset from the § 406(b) award. Hoffman's counsel seeks a payment pursuant to § 406(b)(1) of the remaining \$3,307.

Under the terms of the fee agreement Hoffman's counsel risked no recovery at all and any recovery for Hoffman would be largely due to the counsel's efforts. Hoffman's counsel provided a detailed accounting of his time. Furthermore, the government does not oppose the motion because "the motion is consistent with § 406(b)'s requirements, is in accord with the fee agreement, and is otherwise reasonable." ECF No. 27.

Therefore, the motion for an award of attorney fees (ECF No. 25) in the amount of \$8,257 is **GRANTED**. The Commissioner is ordered to pay \$3,307 to Counsel and \$4,950 to Plaintiff.

Dated this 6th day of April, 2018.

s/William C. Griesbach  
William C. Griesbach, Chief Judge  
United States District Court